

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

JOHN B., CARRIE G., JOSHUA M., MEAGAN A.)
and ERICA A., by their next friend, L.A.;)
DUSTIN P. by his next friend, Linda C.)
BAYLI S. by her next friend, C.W.;)
JAMES D. by his next friend, Susan H.;)
ELSIE H. by her next friend, Stacy Miller;)
JULIAN C. by his next friend, Shawn C.;)
TROY D. by his next friend, T.W.;)
RAY M. by his next friend, P.D.;)
ROSCOE W. by his next friend, K.B.;)
JACOB R. by his next friend, Kim R.;)
JUSTIN S. by his next friend, Diane P.;)
ESTEL W. by his next friend, E.D.;)
individually and on behalf of all others)
similarly situated,)

Plaintiffs,)

v.)

NANCY MENKE, Commissioner,)
Tennessee Department of Health;)
THERESA CLARKE, Assistant Commissioner,)
Bureau of TennCare; and)
GEORGE HATTAWAY, Commissioner,)
Tennessee Department of Children's Services,)

Defendants.)

NO. 3-98-0168
Judge Nixon

*Semi Annual
Progress
Report*

JULY 1998 SEMI-ANNUAL PROGRESS REPORT

Pursuant to ¶ 104 of the Consent Decree entered on March 11, 1998, the state defendants agreed to file a semi-annual report with this Court and plaintiffs' counsel regarding their compliance with the terms of this order. Such reports are to be filed on July 31st and January 31st of each year. Said reports "shall contain information, validated by the applicable audit and

testing procedures outlined herein, which accurately and fully reflect the status of the state's compliance with each of the applicable requirements of this order. ..."

Attached to this notice is a copy of the Semi-Annual Progress Report for the period ending July 31, 1998. This report contains five components:

1. Overview of Activities during report period
2. Attachment A: Planning documents
 - Implementation Schedule for EPSDT Consent Decree
 - Major Points, EPSDT Consent Decree
 - Deadlines Referenced in the EPSDT Consent Decree
3. Attachment B: Progress Report


This document, in chart form, provides the ¶ number, topic, deadline and summary of progress regarding the particular elements. Abbreviations are defined at the bottom of each page. Attachment B also contains the Dental Baseline Screening Percentage Methodology with excerpts from the HCFA 416 Report and the Overall Baseline Screening Percentage Methodology with excerpts from the HCFA 416 Report.

4. Attachment C: EPSDT Screening Committee [¶ 44(a)]
5. Attachment D: Description of Reporting Process

Pursuant to ¶ 104, this semi-annual report is being provided to plaintiffs' local counsel.

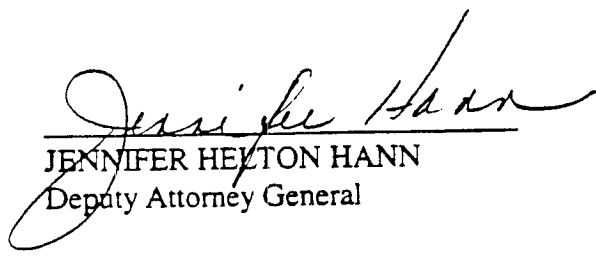
Respectfully submitted,

JOHN KNOX WALKUP
Attorney General & Reporter


JENNIFER HELTON HANN
Deputy Attorney General
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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing July 1998 Semi Annual Progress Report has been forwarded by first-class mail, postage prepaid, to Gordon Bonnyman and Michele Johnson, Tennessee Justice Center, Inc., 211 Union Street, 916 Stahlman Building, Nashville, TN 37201, on this 30th day of July, 1998.


JENNIFER HELTON HANN
Deputy Attorney General

Semiannual Progress Report

EPSDT Consent Decree

July 31, 1998

Overview

During the four months since the EPSDT Consent Decree was entered on March 11, 1998, the State of Tennessee has mobilized considerable resources and effort to begin work on the activities outlined in the Decree. An Implementation Plan has been prepared, together with a summary of the Consent Decree and a list of deadlines. (See Attachment A for these documents.) Materials about EPSDT have been distributed to hundreds of persons throughout the State, and there have been numerous meetings to discuss activities identified in the Decree. Extensive education and training activities have been conducted with State staff and with others having an interest in child health services.

While not required under the terms of the EPSDT Consent Decree, the State has taken other steps in recent months to insure the availability of appropriate services for children:

- In January of this year, the State began work with the William M. Mercer Company on a \$1.5 million contract to provide consultation on the mental health and substance abuse services provided under the TennCare program, including those provided to children. A major redesign of these services is underway.
- In March of this year, the Governor announced a commitment of \$5.8 million over a five year period to provide state matching funds for a potential grant through the federal Substance Abuse and Mental Health Services Administration (SAMHSA) to improve case management services to children. He also authorized a distribution of \$7.75 million to the Community Mental Health Agencies, with \$3.75 million of this being directed toward provision of mental health case management services for children.
- In April of this year, the State released the results of an EPSDT study conducted by the Division of Health Care Evaluation of the Metropolitan-Nashville Davidson County Health Department in collaboration with the Bureau of TennCare. Key findings of the study included the following:
 - 97% of the children eligible for EPSDT services had visited a doctor in the past year. Sixty-nine percent had received a physical or checkup in the past year. Of those who had not had a checkup in the last year, most had had one in the past two years.
 - 84% of children under age five had a checkup in the last year. Special needs children were more likely than others to have had a checkup in the past year.
 - 94% of children in an age group where one would expect all children to have received an immunization in the last year had gotten one.
 - Only 4% reported an untreated health problem, primarily children whose parents were not familiar with the benefits they were entitled to receive.

- Less than 60% knew that physicals, dental visits, and speciality care were covered services, although 80% reported receiving an explanation of benefits and 71% said they received a newsletter from TennCare.

A summary of the progress to date on the activities identified in the EPSDT Consent Decree is presented below and in the chart provided in Attachment B.

Determination of Baseline Screening Percentages

In accordance with the procedures set out in Paragraphs 45 and 46, baseline screening percentages for use in monitoring progress under the Decree have been calculated. They are as follows:

Overall screening compliance:	21.9%
Dental screening compliance:	28.2%

The long-range goals established in the Consent Decree are 80% overall screening compliance by September 30, 2001, and 80% dental screening compliance by September 30, 2003.

In accordance with Paragraph 48, since the baseline overall screening compliance percentage is less than 25%, the short-term goal for Federal Fiscal Year 1999 is a 30% increase. Again in accordance with Paragraph 48, since the baseline dental screening compliance percentage is more than 20%, the short-term goal for Federal Fiscal Year 1999 is 10%.

Expert Consultation

The EPSDT Consent Decree calls for several special studies to be conducted and also calls for the establishment of a special committee to advise on screening guidelines. Activities initiated to date include the following:

- *Establishment of an EPSDT Screening Guidelines Committee (Paragraph 44).*
The Bureau of TennCare has established an EPSDT Screening Guidelines Committee. The committee is composed of five pediatricians; two family practitioners; three psychiatrists; one pediatric ophthalmologist; one neonatologist; one clinical and developmental psychologist; one physician specializing in preventive medicine; one physician specializing in ear, nose, and throat problems; and one nurse practitioner. Of 16 providers mentioned above, four are medical directors of either MCOs or BHOs and one is the Acting Director of TennCare, who is also the Medical Director of TennCare. One of the members, Dr. Joseph McLaughlin, has been retained by TennCare to serve as facilitator. The other 10 members were nominated for the committee by their respective professional organizations—the Tennessee Academy of Family Physicians, the Tennessee Pediatric Society, the Tennessee

Medical Association, and the Tennessee Nurses Association, or were recommended by the plaintiffs. (See Attachment C contains for a list of committee members.) Two meetings of this committee have been held to date. Contract amount (Dr. McLaughlin): \$20,000.

- *Monitoring of a sample of Department of Children's Services (DCS) children to determine the adequacy of services they received prior to entering State custody (Paragraph 73).*
A contract has been signed between DCS and Dr. Craig Ann Heflinger of the Vanderbilt Institute for Public Policy Studies for completion of this activity. Contract amount: \$52,497.
- *Creation of an expert review process (Paragraphs 89-93).*
A contract has been signed between DCS and Paul DeMuro of Montclair, New Jersey, for the development of recommendations regarding the design, coordination, and delivery of medical services to children in DCS custody or at risk of coming into DCS custody. Contract amount: \$97,931.25.
- *Conduct of services testing on a sample of plaintiff class members to determine whether they have received necessary diagnoses and treatment (Paragraph 99).*
Two contracts have been developed by TennCare for accomplishment of this activity. The first is with East Tennessee State University to conduct overall services testing, with an emphasis on children with special health care needs. Proposed contract amount: \$454,650 (includes in-kind contributions from ETSU). The second contract is with the University of Tennessee at Memphis to conduct a cohort study over a three-year period of time on a sample of 400 children who have been labeled "Seriously Emotionally Disturbed," as well as 400 Severely and/or Persistently Mentally Ill adults. Contract amount for three years: \$1,301,618 (includes in-kind contributions from UT-M).

Review of Provider Agreements

In accordance with Paragraph 102, the Tennessee Department of Commerce and Insurance has completed a review of provider agreements used by the MCOs, BHOs, and DCS. The findings of this review have been turned over to TennCare. The Contract Development and Compliance Unit at TennCare is in the process of examining these findings and will make recommendations for corrective action where necessary, in accordance with Paragraph 103.

Review of Appeals

The Tennessee Department of Health Appeals Unit has completed a review of TennCare appeals relative to EPSDT services, in accordance with Paragraph 101 of the EPSDT Consent Decree. There are roughly 500,000 children enrolled in TennCare. During the

period between January 1, 1998, and June 30, 1998, 572 appeals were filed. Appeals of inpatient psychiatric services were the largest category of appeals (137), followed by appeals of physical therapy services (96), pharmacy services (55), and psychiatric residential treatment services (41). On an ongoing basis, the Appeals Unit makes recommendations to the Bureau of TennCare for assessment of liquidated damages when there is documentation that an MCO has failed to deliver a service to a child within 30 days of being given a directive by the State to do so.

Education and Training

In accordance with Paragraphs 113 and 114 of the Consent Decree, the following notifications have been distributed:

- *Notice for MCO member newsletters*
This notice was sent to all MCOs for inclusion in their next member newsletter.
- *Brief description of the EPSDT Consent Decree*
A brief description of the EPSDT Consent Decree has been prepared and is being sent out upon request by the TennCare Information Line. This description has also been sent to the MCOs for use in answering questions from their members, to over 200 advocacy groups representing persons with disabilities, and to providers in the State's immunization program.

These notices were developed by TennCare in consultation with representatives for the plaintiffs.

A number of training events have been held to acquaint service providers, State staff members, and others with the provisions of the Consent Decree. These events include training of the Appeals Coordinators of the MCOs, training of staff from the Regional Mental Health Institutes, and training of the Statewide Mental Health Planning Council. The Department of Children's Services is in the midst of a statewide training of staff in all 12 regions, which it expects to complete by the end of August. Other training sessions have been held for the Tennessee Association of Child Care and the Tennessee Association of Mental Health Organizations.

Enhanced Monitoring Activities

TennCare has expanded the activities of the External Quality Review Organization (EQRO) in monitoring the MCOs and BHOs. Specific new activities include the following:

- Review of practices and procedures for making referrals to specialists (Paragraph 53)
- More in-depth review of denials of service (Paragraph 54)

In accordance with Paragraph 43, the Quality Improvement Unit at TennCare has assessed the adequacy of the MCOs' pediatric provider networks and has identified deficiencies in one county for one MCO and in two counties for another MCO. Letters requesting plans of correction from these MCOs are being prepared.

In accordance with Paragraph 70, the Quality Improvement Unit has performed clinical record reviews at all Community Mental Health Agencies to determine the extent of the delivery of case management services to a sample of Priority Participants. In addition, TennCare is working with a task force that includes consumers and family members to revise the case management standards for both children and adults.

In accordance with Paragraph 71iii, a project to provide enhanced monitoring of discharges from psychiatric facilities was implemented by TennCare in February 1998.

Contract Amendments

In accordance with Paragraph 61i, the MCO contracts have been amended to include the requirement that providers be informed about EPSDT. In accordance with Paragraph 62, the MCO contracts have been amended to include a requirement that the MCOs distribute up-to-date lists of specialists to their primary care providers and update these lists on a regular basis. In accordance with Paragraphs 75 and 76, the MCO contracts have been amended to include a provision stating that transportation for children must include transportation for an accompanying adult and to prohibit blanket restrictions based on age or lack of parental accompaniment. A contract amendment has also been added to provide liquidated damages for Behavioral Health Organizations (BHOs) where a child has had to enter State custody because of the failure of the BHO to provide medically necessary services.

Other Administrative Activities

In accordance with Paragraph 47, the Bureau of TennCare has sent letters to the MCOs providing a list of screening procedure and/or diagnosis codes.

In accordance with Paragraph 56, the Department of Children's Services has incorporated the TennCare definition of "medical necessity" in its Provider Services Manual, which is an attachment to its provider contracts.

In accordance with Paragraph 72, TennCare developed a rule lifting dollar limits on mental health and substance abuse services to children under 21. This rule has been presented at hearing and is now awaiting the signature of the Secretary of State in order to be final.

In accordance with Paragraph 83, a Commissioner's Task Force has been appointed. One meeting of the staff committee to this Task Force has been held to date.

In accordance with Paragraph 88, the services testing process used by the Tennessee Commission on Children and Youth has been amended to include an audit of EPSDT compliance with regard to the children sampled.

In accordance with Paragraph 96, a reporting process has been developed by the Bureau of TennCare. (See Attachment D.)

In accordance with Paragraph 107, plaintiffs' attorneys fees have been submitted and are being reviewed by the Attorney General's office.

Attachment A

Planning Documents

1. Implementation Schedule for EPSDT Consent Decree
2. Major Points, EPSDT Consent Decree
3. Deadlines Referenced in the EPSDT Consent Decree

1. Implementation Schedule for EPSDT Consent Decree *

Area	Activity	Unit Responsible	Timeframe for Completion
Outreach and Informing	Adopt any policies and procedures necessary to make certain that TennCare rules and guidelines clearly describe, allocate responsibility for, and require compliance with each specific <i>outreach and informing requirement</i> under federal law. [39]	TennCare Policy Unit (EQRO to monitor compliance)	Within 180 days (by September 12, 1998)
	Achieve and maintain <i>EPSDT outreach efforts</i> designed to reach all TennCare children under the age of 21 with information and materials conforming to the requirements of the order. [40]	TennCare QI Unit/EQRO	Within 240 days (by November 12, 1998)
Screening	Assure that TennCare rules and guidelines clearly describe, allocate responsibility for, and require compliance with each <i>specific screening requirement</i> under federal law. [41]	TennCare Policy Unit	
	Assure that TennCare rules and guidelines clearly describe, allocate responsibility for, and require compliance with each specific requirement of federal law governing the provision of <i>interperiodic screening, vision, hearing, dental and diagnostic services</i> which are medically necessary to determine the existence of suspected physical or mental illnesses or conditions. [42]	TennCare QI Unit	
	Insure that the <i>MCO networks</i> are adequate in terms of qualifications and training, as well as numbers, to properly screen children in conformity with all federal laws and regulations. [43]	TennCare Medical Director	• Complete screening guidelines for children with possible vision or
	Insure that each periodic screen accurately identifies children who should be referred for		

*Paragraph references to Consent Decree are indicated in bold parentheticals, e.g., "[39]."

<i>Area</i>	<i>Activity</i>	<i>Unit Responsible</i>	<i>Timeframe for Completion</i>
	further assessment of behavioral/developmental problems and/or possible hearing or vision impairments. [44]		<ul style="list-style-type: none"> hearing impairments within 6 months (by September 12, 1998) Complete screening guidelines for children with possible behavioral or developmental impairments within 18 months (by September 12, 1999)
	Determine a baseline screening percentage of screening compliance. [45-46]	TennCare Data Analyst	Within 120 days (by July 12, 1998)
	Conduct an annual statistically valid medical review to determine whether all of the required screening components are being documented in children's medical records. [46]	TennCare QI Unit	Annually
	Require the MCOs to use specific procedure and/or diagnosis codes when reporting EPSDT screens and provide education to the MCOs concerning the screening requirements. [47]	TennCare QI Unit/TennCare Information Systems Unit	
	Following the annual medical review, for each of the required seven screening components, report the percentage of screening encounters which included documentation of that component and request corrective action plans from the MCOs where deficiencies have been identified. [47]	TennCare QI Unit	Following annual medical record review
	Provide data on the screening percentages for FFY 99. [48]	TennCare Data Analyst	April 30, 2000
	Provide data on the screening percentages for FFY 00. [49]	TennCare Data Analyst	April 30, 2001
	Provide data on the screening percentages for FFY 01. [49]	TennCare Data Analyst	April 30, 2002

Area	Activity	Unit Responsible	Timeframe for Completion
	Provide data on the screening percentages for FFY 02. [49]	TennCare Data Analyst	April 30, 2003
	Provide data on the screening percentages for FFY 03. [50]	TennCare Data Analyst	April 30, 2004
Diagnosis	Establish and maintain a process for reviewing the practices and procedures of the MCOs, BHOs, and DCS and require modifications of those practices and procedures as necessary to ensure that children can be <i>appropriately referred from one level of screening to another</i> . [53]	TennCare QI Unit/EQRO	Within 120 days (by July 12, 1998)
Treatment	Ensure that <i>services required under EPSDT law</i> are delivered as medically necessary. [54, 59]	TennCare QI Unit/EQRO/Appeals Unit to review denials	
	Review MCO and BHO practices with respect to making <i>medical necessity decisions</i> and identify areas that are inconsistent with federal law. Ensure that the MCOs, BHOs, and DCS use only the <i>definition of "medical necessity"</i> in the TennCare MCO contracts when making these decisions. [55-56]	TennCare QI Unit/EQRO	
	Ensure that no <i>absolute limits or monetary caps</i> on EPSDT services are imposed. <i>Utilization controls</i> cannot unreasonably delay the initial or continued receipt of services, nor can they cause recipients to go without needed care. [57]	TennCare QI Unit/EQRO	
	Establish standards and procedures for monitoring contractors' <i>utilization review and prior authorization activities</i> to ensure that decisions in	TennCare QI Unit/EQRO	Within 120 days (by July 12, 1998)

<i>Area</i>	<i>Activity</i>	<i>Unit Responsible</i>	<i>Timeframe for Completion</i>
	these areas are made only by qualified personnel with education, training, or experience in child and adolescent health. [58]		
	Develop a <i>provider handbook</i> to specify the responsibilities of MCOs, BHOs, and DCS with respect to provision of medically necessary services for children in DCS custody. [60]	DCS	Within 120 days (by July 12, 1998)
	Include in the MCO and BHO contracts a requirement that provider agreements, after the next amendment process, inform providers about EPSDT. [61i]	TennCare Contract Development and Compliance Unit	After the next amendment process
	Ensure that there is current compliance with the <i>HCF A Access Standards</i> . [61ii]	TennCare QI Unit	Within 180 days (by September 12, 1998)
	Demonstrate that the "reasonable promptness" and "geographic access" standards are met [61iii]	TennCare QI Unit	Beginning no later than 180 days (September 12, 1998)
	Require the MCOs to provide each primary care provider participating in the EPSDT program with an <i>up-to-date list of specialists to whom referrals may be made</i> ; this list shall be supplemented quarterly to indicate additions or deletions. [62]	TennCare QI Unit/TennCare Contract Development and Compliance Unit	Beginning no later than 180 days (September 12, 1998)
	Issue <i>any necessary policy clarifications</i> so that contractors understand their duty to provide EPSDT diagnosis and treatment services consistent with federal regulations and inform these contractors thereafter on a timely basis about federal requirements. [65]	TennCare Policy Unit	Within 180 days (by September 12, 1998)
	Ensure that <i>case management services</i> are	TennCare QI Unit	

<i>Area</i>	<i>Activity</i>	<i>Unit Responsible</i>	<i>Timeframe for Completion</i>
	provided which are consistent with federal laws and regulations and which are integrated throughout the operations of the MCOs, BHOs and DCS and focus on the needs of the individual child. [66-70]		
	Ensure that parents and family members are involved, to the greatest extent possible, in the determination of appropriate behavioral health services for children. [71i]	TennCare QI Unit	
	Ensure that a comprehensive and appropriate scope of geographically accessible child and adolescent behavioral health services and in a range of treatment settings is provided. [71ii]	TennCare QI Unit	
	Provide for appropriate continuity of care and services following psychiatric or chemical dependency inpatient facility services or residential treatment as specified in appropriate discharge plans. [71iii]	TennCare QI Unit	Within 120 days, enhance current monitoring of contractors' adherence to the discharge planning process (by July 12, 1998)
	Ensure that all medically necessary behavioral health services for children are delivered regardless of whether or not the child has been identified as SED. [71iv]	TennCare QI Unit	
	Submit a notice of proposed rulemaking to withdraw State rules establishing lifetime dollar limits and absolute service limits on behavioral health services to children under 21. [72]		Within 30 days (by April 12, 1998)
	Monitor a sample of children entering DCS custody and assess the adequacy of services provided to them by TennCare contractors prior to	DCS	Within 120 days (by July 12, 1998)

Area	Activity	Unit Responsible	Timeframe for Completion
	their entry into custody. [73]		
	Ensure that the MCOs and BHOs meet their responsibilities to provide non-emergency transportation. [74-76]	TennCare QI Unit/EQRO	
	Develop and implement protocols and procedures by which MCOs and BHOs make referrals to TennCare transportation providers. [77]	TennCare QI Unit/EQRO	
Coordination of EPSDT Services with Other Programs and Services	Coordinate EPSDT services with other children's health and education services and programs. [78]	TennCare Policy Unit	
	Provide contractors with a statewide list of services available through State agencies for which EPSDT coordination is appropriate. [79]	TennCare Policy Unit	Within 180 days (by September 12, 1998)
	Coordinate EPSDT outreach, screening, and treatment services with services or programs on the statewide list. [80]	TennCare Policy Unit	Within 240 days (by November 12, 1998)
	Require use of a process to provide information to MCOs and BHOs when children have been identified as needing to receive medically related services in an educational setting. [81]	TennCare Policy Unit	Within 180 days (by September 12, 1998)
	Issue regulations and policy guidance to contractors which incorporate strategies for ensuring coordination of EPSDT services among contractors and with the other programs and services enumerated above. [82]	TennCare Policy Unit	Within 180 days (by September 12, 1998)
	Develop a release form to provide to LEAs for	TennCare Policy Unit	

Area	Activity	Unit Responsible	Timeframe for Completion
	<p>parents to consider. [82]</p> <p>Create and maintain a <i>Commissioner's Task Force</i>, establish dispute resolution and coordination processes, and develop interagency agreements and referral agreements to facilitate ongoing coordination of EPSDT services administered by the managed care contractors and DCS. [83]</p>	Commissioner's Office	
<p>Coordination and Delivery of Services for Children in DCS Custody</p>	<p>Ensure that the <i>case planning and case review</i> required under the relevant portions of the Adoption Assistance and Child Welfare Act for TennCare children in DCS custody who are subject to such Act shall identify and provide for the treatment of the behavioral and medical needs of these children in accordance with appropriate statutes. [84]</p>	DCS	<p>Within 120 days (by July 12, 1998)</p>
	<p>Ensure that the <i>service testing process currently performed by TCCY</i> shall include on an ongoing basis an audit of EPSDT compliance with regard to the children sampled. [88]</p>	DCS	
	<p>Create an <i>expert review process</i> which will provide for evaluation of the State's EPSDT compliance plan. [89-93]</p>	DCS	<ul style="list-style-type: none"> • Select a contractor within 45 days (by April 27, 1998) • Execute a contract within 100 days (by June 22, 1998) • Evaluators will report initial findings in writing within 90 days of contract execution (by September 22, 1998) • Within 60 days thereafter the

<i>Area</i>	<i>Activity</i>	<i>Unit Responsible</i>	<i>Timeframe for Completion</i>
			parties shall submit to the Court a proposed agreed order with a specific remedial plan (by November 22, 1998)
Monitoring and Enforcement of MCO, BHO, and DCS Compliance	Requite contractors to achieve and maintain the capability of <i>tracking each child</i> for the purposes of monitoring the child's receipt of the required screening, diagnosis, and treatment. The tracking system shall have the capacity of generating an immediate report on the child's EPSDT status, reflecting all encounters reported to the State more than 60 days prior to the date of the report. [94]	TennCare Data Analyst	Within 180 days (by September 12, 1998)
	Achieve and maintain a tracking system as described above, except that DCS's system shall reflect <i>all screens received by the child more than 30 days prior to the report.</i> [95]	DCS	Within 150 days (by August 12, 1998)
Systems Monitoring	Establish an ongoing process for <i>monitoring and reporting compliance</i> with the requirements of the order. [96]	TennCare Bureau Office	Within 120 days (by July 12, 1998)
	Compile data on <i>all pertinent provider encounters</i> which involve children and which are covered by the TennCare Program. [97]	TennCare Information Systems Unit	
	Conduct ongoing <i>audits</i> for the purpose of authenticating encounter data. [98]	TennCare Information Systems Unit	
	Select an independent contractor to conduct <i>services testing</i> on a sample of plaintiff class members to determine whether they have received necessary diagnoses and medical/behavioral	TennCare Bureau Office (will coordinate with DCS re: Section 73)	<ul style="list-style-type: none"> Select contractor within 60 days (by May 12, 1998) Execute contract within 120 days (by July 12, 1998)

Area	Activity	Unit Responsible	Timeframe for Completion
	treatment in conformity with this order. [99]	TennCare Policy Unit	
	Issue <i>policy clarifications and interpretations</i> as necessary to guide the MCOs, BHOs, and DCS in implementation of the EPSDT mandate. [100]		
	Conduct the first of <i>semiannual reviews of appeals</i> filed under the TennCare Program to determine whether deficiencies or repeated violations have occurred and to levy financial penalties when necessary. [101]	TennCare Appeals Unit	Within 120 days (by July 12, 1998)
	Review <i>provider contracts</i> to determine any provisions which would encourage violations of the EPSDT mandate. [102-103]	TDCI	Within 60 days (by May 12, 1998)
Reporting and Plaintiff Access to Public Records	File <i>semiannual reports</i> with the Court and plaintiffs' counsel regarding their compliance with the terms of the order. [104]	Department of Health Office of General Counsel	July 31 st of each year January 31 st of each year
	Assure that plaintiffs' counsel have <i>access to public records</i> . [105]	Department of Health Office of General Counsel	Upon 30 days prior notice
	Meet at least <i>quarterly</i> to monitor the progress of implementation of this decree. [106]	TennCare Bureau Office	June, September, December, and March of each year
	Plaintiffs' counsel shall submit <i>itemization of fees and expenses</i> to the State. [107]	Department of Health Office of General Counsel	Within 60 days (by May 12, 1998)
Notice to Class Members	Notify the members of the plaintiff class, or their parents/guardians, of the order by including in the <i>next quarterly newsletter of each MCO</i> an article describing in general terms the EPSDT rights which are the subject of this settlement and which	TennCare Operations Unit	

<i>Area</i>	<i>Activity</i>	<i>Unit Responsible</i>	<i>Timeframe for Completion</i>
	refers the reader to the TennCare Hot Line. A <i>more detailed description of the settlement</i> , written in general terms, shall be offered to those who contact the Hot Line, the MCOs, or the BHOs for more information. [113]		
	Use <i>reasonable alternative methods</i> to afford notice of the settlement to class members who, due to their disabilities, are unable to benefit from the notice requirements described above. [114]	TennCare Operations Unit	
	Notify all future class members of EPSDT services by attaching <i>information in newly approved TennCare eligibles' notice of eligibility</i> . [115]	TennCare Operations Unit	
Expiration	The Consent Decree shall <i>expire</i> upon proof that the State has reached the target screening percentages and is in current, substantial compliance with the requirements contained in the decree. [116]	Department of Health Office of General Counsel	

sb epsdtimp, 3/26/98

2. Major Points

EPSDT Consent Decree

State of Tennessee

"EPSDT" stands for Early and Periodic, Screening, Diagnosis, and Treatment. The purpose of the EPSDT program is to assure that TennCare-eligible children under the age of 21 receive regular screenings (check-ups) to identify potential health, developmental, and behavioral problems so that these problems can be treated before they become worse.

The State is already required by federal law to abide by all EPSDT laws and regulations. Attorneys for the Tennessee Justice Center and representatives of the State have developed jointly an EPSDT Consent Decree that outlines steps the State will take to assure compliance with EPSDT requirements. The Consent Decree was filed with the federal court on **March 11, 1998**.

The summary below includes the paragraph numbers (in bold) where information on the particular item can be found in the Consent Decree.

Major Goals Proposed in Consent Decree

- 100% screening of TennCare-eligible children in the custody of DCS within 18 months **[52]**
- 80% screening of other TennCare eligible children by September 2001 **[50]**
- 80% dental screening of TennCare-eligible children by September 2003 **[50]**

Key Actions Proposed in Consent Decree

Outreach and Informing

- Within 180 days of the order, the State shall adopt any policies and procedures necessary to make certain that TennCare rules and guidelines clearly describe, allocate responsibility for, and require compliance with each specific *outreach and informing requirement* under federal law. **[39]**
- Within 240 days of the order, the State or its contractors shall achieve and maintain *EPSDT outreach efforts* designed to reach all TennCare children under the age of 21 with information and materials conforming to the requirements of the order. **[40]**

Screening

- TennCare rules and guidelines shall clearly describe, allocate responsibility for, and require compliance with each *specific screening requirement* under federal law. [41]
- TennCare rules and guidelines shall clearly describe, allocate responsibility for, and require compliance with each specific requirement of federal law governing the provision of *interperiodic screening, vision, hearing, dental and diagnostic services* which are medically necessary to determine the existence of suspected physical or mental illnesses or conditions. [42]
- The State will insure that the *MCO networks* are adequate in terms of qualifications and training, as well as numbers, to properly screen children in conformity with all federal laws and regulations. [43]
- The State will take steps to ensure that each periodic screen accurately identifies children who should be referred for further assessment of *behavioral/developmental problems* and/or possible *hearing or vision impairments*. Development of guidelines for referral of children with possible hearing or vision impairments will be completed in six months. Development of guidelines for referral of children with possible behavioral or developmental impairments will be completed within 18 months. [44]
- Within 120 days of the order, a baseline percentage of *screening compliance* shall be determined. [45-46]
- TennCare will conduct an annual statistically valid medical review to determine whether *all of the required screening components* are being documented in children's medical records. These components are as follows:
 - Comprehensive health (physical and mental) and developmental history;
 - Comprehensive unclothed physical exam;
 - Appropriate immunizations according to age and health history;
 - Appropriate laboratory tests according to age and health history;
 - Health education;
 - Hearing screen; and
 - Vision screen. [46]
- TennCare shall require the MCOs to use specific procedure and/or diagnosis codes when *reporting EPSDT screens* and will provide education to the MCOs concerning the screening requirements. [47]
- Following the annual medical review, for each of the required seven screening components, TennCare will report the *percentage of screening encounters* which included documentation of that component and will request corrective action plans from the MCOs where deficiencies have been identified. [47]

- By April 30 of the following year, provide *data on screening percentages* for FFYs 99, 00, 01, 02, and 03. [48-50]]

Diagnosis

- Within 120 days of the order the State shall establish and maintain a process for reviewing the practices and procedures of the MCOs, BHOs, and DCS and shall require modifications of those practices and procedures as necessary to ensure that children can be *appropriately referred from one level of screening to another*. [53]

Treatment

- The State shall insure that *services required under EPSDT law* are delivered as medically necessary, including:
 - Inpatient hospital services;
 - Outpatient hospital services, rural health clinic services, and services offered by a federally qualified health center;
 - Other laboratory and x-ray services;
 - EPSDT services, and family planning services and supplies;
 - Physicians' services; medical and surgical services furnished by a dentist;
 - Medical care, or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;
 - Home health care services;
 - Private duty nursing services;
 - Clinic services;
 - Dental services;
 - Physical therapy and related services;
 - Prescribed drugs, dentures, and prosthetic devices; eyeglasses;
 - Other diagnostic, screening, preventive, and rehabilitative services;
 - Services in an intermediate care facility for the mentally retarded;
 - Inpatient psychiatric services;
 - Services furnished by a nurse-midwife;
 - Hospice care;
 - Case management services and TB-related services;
 - Respiratory care services;
 - Services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner;
 - Personal care services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease; and

- Any other medical care, and any other type of remedial care recognized under state law, specified by the United States Department of Health and Human Services. [54, 59]
- The State shall review MCO and BHO practices with respect to making *medical necessity decisions* and will identify areas that are inconsistent with federal law. The State shall ensure that the MCOs, BHOs, and DCS use only the *definition of "medical necessity"* in the TennCare MCO contracts when making these decisions. [55-56]
- Neither the State nor its contractors shall impose *absolute limits or monetary caps* on EPSDT services. *Utilization controls* cannot unreasonably delay the initial or continued receipt of services, nor can they cause recipients to go without needed care. [57]
- Within 120 days of the order, the State shall establish standards and procedures for monitoring their contractors' *utilization review and prior authorization activities* to ensure that decisions in these areas are made only by qualified personnel with education, training, or experience in child and adolescent health. [58]
- Within 120 days of the order, the State shall develop a *provider handbook* to specify the responsibilities of MCOs, BHOs, and DCS with respect to provision of medically necessary services for children in DCS custody. [60]
- The State shall include in MCO and BHO contracts a requirement that *provider agreements*, after the next amendment process, inform providers about EPSDT. [61i]
- Within 180 days of the order, the State shall ensure that they or their contractors currently comply with the *HCFA Access Standards*. [61ii]
- Beginning no later than 180 days after the order, the MCOs and BHOs must demonstrate that they meet the *"reasonable promptness" and "geographic access" standards*. [61iii]
- Beginning no later than 180 days after the order, the MCOs will be required to provide each primary care provider participating in the EPSDT program with an *up-to-date list of specialists to whom referrals may be made*; this list shall be supplemented quarterly to indicate additions or deletions. [62]
- Within 180 days of the order, the State shall *issue any necessary policy clarifications* so that contractors understand their duty to provide EPSDT diagnosis and treatment services consistent with federal regulations and shall inform these contractors thereafter on a timely basis about federal requirements. [65]
- The State and its contractors will provide *case management services* consistent with federal laws and regulations and will ensure that case management activities are

3. **Deadlines Referenced in the EPSDT Consent Decree**

By April 12, 1998:

- Submit a notice of proposed rulemaking to withdraw State rules establishing lifetime dollar limits and absolute service limits on behavioral health services to children under 21. [Paragraph 72] (*TennCare Policy Unit*)

By April 27, 1998:

- Select a contractor for the expert review process evaluating the State's EPSDT compliance plan. [Paragraphs 89-93] (*DCS*)

By May 12, 1998:

- Select independent contractor to conduct services testing on a sample of the class members. [Paragraph 99] (*TennCare Bureau Office*)
- Review provider contracts to determine any provisions which encourage violations of EPSDT mandate. [Paragraphs 102-103] (*TDCI*)
- Plaintiffs' counsel shall submit itemization of fees and expenses to the State. [Paragraph 107] (*Department of Health Office of General Counsel*)

By June 22, 1998:

- Execute a contract with the person(s) performing the expert review process evaluating the State's EPSDT compliance plan. [Paragraphs 89-93] (*DCS*)

By June 30, 1998:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By July 12, 1998:

- Determine a baseline screening percentage of screening compliance. [Paragraphs 45-46] (*TennCare Data Analyst*)
- Establish and maintain a process for reviewing the practices and procedures of the MCOs, BHOs, and DCS for referring children from one level of screening to another and require modifications as necessary. [Paragraph 53] (*TennCare QI Unit/EQRO*)
- Establish standards and procedures for monitoring contractors' utilization review and prior authorization activities to ensure that decisions in these areas are made only by qualified personnel with education, training, or experience in child and adolescent health. [Paragraph 58] (*TennCare QI Unit/EQRO*)
- Develop a provider handbook to specify the responsibilities of MCOs, BHOs, and DCS with respect to provision of medically necessary services for children in DCS custody. [Paragraph 60] (*DCS*)
- Enhance current monitoring of contractors' adherence to the discharge planning process. [Paragraph 71iii] (*TennCare QI Unit*)

- Monitor a sample of children entering DCS custody and assess the adequacy of services provided to them by TennCare contractors prior to their entry into custody. [Paragraph 73] (DCS)
- Ensure that the service testing process currently performed by TCCY shall include on an ongoing basis an audit of EPSDT compliance with regard to the children sampled. [Paragraph 88] (DCS)
- Establish an ongoing process for monitoring and reporting compliance with the requirements of the order. [Paragraph 96] (TennCare Bureau Office)
- Execute contract with independent contractor to conduct services testing on a sample of the plaintiff class. [Paragraph 99] (TennCare Bureau Office)
- Conduct the first of semiannual reviews of appeals. [Paragraph 101] (TennCare Appeals Unit)

By July 31, 1998:

- File semiannual report with the Court and plaintiffs' counsel regarding compliance with the Court order. [Paragraph 104] (Department of Health Office of General Counsel)

By August 12, 1998:

- Achieve and maintain a DCS tracking system. [Paragraph 95] (DCS)

By September 12, 1998:

- Adopt any policies and procedures necessary to make certain that TennCare rules and guidelines clearly describe, allocate responsibility for, and require compliance with each specific outreach and informing requirement under federal law. [Paragraph 39] (TennCare Policy Unit, with EQRO to monitor compliance)
- Ensure that there is current compliance with HCFA Access Standards. [Paragraph 61ii] (TennCare QI Unit)
- Issue any necessary policy clarifications so that contractors understand their duty to provide EPSDT diagnosis and treatment services consistent with federal regulations and inform these contractors thereafter on a timely basis about federal requirements. [Paragraph 65] (TennCare Policy Unit)
- Provide contractors with a statewide list of services available through State agencies for which EPSDT coordination is appropriate. [Paragraph 79] (TennCare Policy Unit)
- Require use of a process to provide information to MCOs and BHOs when children have been identified as needing to receive medically related services in an educational setting. [Paragraph 81] (TennCare Policy Unit)
- Issue regulations and policy guidance to contractors which incorporate strategies for ensuring coordination of EPSDT services among contractors and with the other programs and services enumerated on the statewide list. [Paragraph 82] (TennCare Policy Unit)
- Require contractors to achieve and maintain the capability of tracking each child. [Paragraph 94] (TennCare Data Analyst)

- Complete screening guidelines for children with possible vision or hearing impairments. [Paragraph 44] (*TennCare Medical Director*)

Beginning no later than September 12, 1998:

- Demonstrate that the “reasonable promptness” and “geographic access” standards are met. [Paragraph 61iii] (*TennCare QI Unit*)
- Require the MCOs to provide each primary care provider participating in the EPSDT program with an up-to-date list of specialists to whom referrals may be made; this list shall be supplemented quarterly to indicate additions or deletions. [Paragraph 62] (*TennCare QI Unit and TennCare Contract Development and Compliance Unit*)

By September 22, 1998:

- Evaluators will report initial findings. [Paragraphs 89-93] (*DCS*)

By September 30, 1998:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By November 12, 1998:

- Achieve and maintain EPSDT outreach efforts designed to reach all TennCare children with information and materials conforming to the requirements of the order. [Paragraph 40] (*TennCare QI Unit/EQRO*)
- Coordinate EPSDT outreach, screening, and treatment services with services or programs on statewide list. [Paragraph 80] (*TennCare Policy Unit*)

By November 22, 1998:

- Submit to the Court a proposed agreed order with a specific remedial plan. [Paragraphs 89-93] (*DCS*)

By December 31, 1998:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By January 12, 1999:

- Conduct a semiannual review of appeals. [Paragraph 101] (*TennCare Appeals Unit*)

By January 31, 1999:

- File semiannual report with the Court and plaintiffs’ counsel regarding compliance with the Court order. [Paragraph 104] (*Department of Health Office of General Counsel*)

By March 12, 1999:

- Conduct an annual statistically valid medical review to determine whether all of the required screening components are being documents in children’s medical records. [Paragraph 47] (*TennCare QI Unit*)

By March 31, 1999:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By June 30, 1999:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By July 12, 1999:

- Conduct a semiannual review of appeals. [Paragraph 101] (*TennCare Appeals Unit*)

By July 31, 1999:

- File semiannual report with the Court and plaintiffs' counsel regarding compliance with the Court order. [Paragraph 104] (*Department of Health Office of General Counsel*)

By September 12, 1999:

- Complete screening guidelines for children with possible behavioral or developmental impairment. [Paragraph 44] (*TennCare Medical Director*)
- Report on the follow-up to the annual medical review. [Paragraph 47] (*TennCare QI Unit*)

By September 30, 1999:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By December 31, 1999:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By January 12, 2000:

- Conduct a semiannual review of appeals. [Paragraph 101] (*TennCare Appeals Unit*)

By January 31, 2000:

- File semiannual report with the Court and plaintiffs' counsel regarding compliance with the Court order. [Paragraph 104] (*Department of Health Office of General Counsel*)

By March 12, 2000:

- Conduct an annual statistically valid medical review to determine whether all of the required screening components are being documents in children's medical records. [Paragraph 47] (*TennCare QI Unit*)

By March 31, 2000:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By April 30, 2000:

- Provide data on screening percentages for FFY 99. [Paragraph 48] (*TennCare Data Analyst*)

By June 30, 2000:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By July 12, 2000:

- Conduct a semiannual review of appeals. [Paragraph 101] (*TennCare Appeals Unit*)

By July 31, 2000:

- File semiannual report with the Court and plaintiffs' counsel regarding compliance with the Court order. [Paragraph 104] (*Department of Health Office of General Counsel*)

By September 12, 2000:

- Report on the follow-up to the annual medical review. [Paragraph 47] (*TennCare QI Unit*)

By September 30, 2000:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By December 31, 2000:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By January 12, 2001:

- Conduct a semiannual review of appeals. [Paragraph 101] (*TennCare Appeals Unit*)

By January 31, 2001:

- File semiannual report with the Court and plaintiffs' counsel regarding compliance with the Court order. [Paragraph 104] (*Department of Health Office of General Counsel*)

By March 12, 2001:

- Conduct an annual statistically valid medical review to determine whether all of the required screening components are being documents in children's medical records. [Paragraph 47] (*TennCare QI Unit*)

By March 31, 2001:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By April 30, 2001:

- Provide data on the screening percentages for FFY 00. [Paragraph 49] (*TennCare Data Analyst*)

By June 30, 2001:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By July 12, 2001:

- Conduct a semiannual review of appeals. [Paragraph 101] (*TennCare Appeals Unit*)

By July 31, 2001:

- File semiannual report with the Court and plaintiffs' counsel regarding compliance with the Court order. [Paragraph 104] (*Department of Health Office of General Counsel*)

By September 12, 2001:

- Report on the follow-up to the annual medical review. [Paragraph 47] (*TennCare QI Unit*)

By September 30, 2001:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By December 31, 2001:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By January 12, 2002:

- Conduct a semiannual review of appeals. [Paragraph 101] (*TennCare Appeals Unit*)

By January 31, 2002:

- File semiannual report with the Court and plaintiffs' counsel regarding compliance with the Court order. [Paragraph 104] (*Department of Health Office of General Counsel*)

By March 12, 2002:

- Conduct an annual statistically valid medical review to determine whether all of the required screening components are being documents in children's medical records. [Paragraph 47] (*TennCare QI Unit*) .

By March 31, 2002:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By April 30, 2002:

- Provide data on the screening percentages for FFY 0. [Paragraph 49] (*TennCare Data Analyst*)

By June 30, 2002:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By July 12, 2002:

- Conduct a semiannual review of appeals. [Paragraph 101] (*TennCare Appeals Unit*)

By July 31, 2002:

- File semiannual report with the Court and plaintiffs' counsel regarding compliance with the Court order. [Paragraph 104] (*Department of Health Office of General Counsel*)

By September 12, 2002:

- Report on the follow-up to the annual medical review. [Paragraph 47] (*TennCare QI Unit*)

By September 30, 2002:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By December 31, 2002:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By January 12, 2003:

- Conduct a semiannual review of appeals. [Paragraph 101] (*TennCare Appeals Unit*)

By January 31, 2003:

- File semiannual report with the Court and plaintiffs' counsel regarding compliance with the Court order. [Paragraph 104] (*Department of Health Office of General Counsel*)

By March 12, 2003:

- Conduct an annual statistically valid medical review to determine whether all of the required screening components are being documents in children's medical records. [Paragraph 47] (*TennCare QI Unit*)

By March 31, 2003:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By April 30, 2003:

- Provide data on the screening percentages for FFY 02. [Paragraphs 48, 50] (*TennCare Data Analyst*)

By June 30, 2003:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By July 12, 2003:

- Conduct a semiannual review of appeals. [Paragraph 101] (*TennCare Appeals Unit*)

By July 31, 2003:

- File semiannual report with the Court and plaintiffs' counsel regarding compliance with the Court order. [Paragraph 104] (*Department of Health Office of General Counsel*)

By September 12, 2003:

- Report on the follow-up to the annual medical review. [Paragraph 47] (*TennCare QI Unit*)

By September 30, 2003:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By December 31, 2003:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By January 12, 2004:

- Conduct a semiannual review of appeals. [Paragraph 101] (*TennCare Appeals Unit*)

By January 31, 2004:

- File semiannual report with the Court and plaintiffs' counsel regarding compliance with the Court order. [Paragraph 104] (*Department of Health Office of General Counsel*)

By March 12, 2004:

- Conduct an annual statistically valid medical review to determine whether all of the required screening components are being documents in children's medical records. [Paragraph 47] (*TennCare QI Unit*)

By March 31, 2004:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By April 30, 2004:

- Provide data on the screening percentages for FFY 03. [Paragraph 50] (*TennCare Data Analyst*)

By June 30, 2004:

- Hold quarterly meeting with parties [Paragraph 106] (*TennCare Bureau Office*)

By July 12, 2004:

- Conduct a semiannual review of appeals. [Paragraph 101] (*TennCare Appeals Unit*)

By July 31, 2004:

- File semiannual report with the Court and plaintiffs' counsel regarding compliance with the Court order. [Paragraph 104] (*Department of Health Office of General Counsel*)

sb.epstddeadlines.3/26/98

Attachment B

Progress Report

Progress Report

EPSDT Consent Decree

July 31, 1998

Section Number	Topic	Deadline	Progress
39	Policies and Procedures re: Outreach and Informing	Within 180 days (9/12/98)	The EQRO is reviewing member education and outreach programs as part of its annual surveys of the MCOs.
41	Screening Requirements		A TSOP (TennCare Standard Operating Procedure) has been drafted and is being reviewed at TennCare.
42	Interperiodic Screening Requirements		A TSOP is being prepared on this topic.
43	Network Adequacy		The Quality Improvement staff conducted a telephone survey of all primary care providers (PCPs) included in the MCOs' PCP network files. This survey was conducted in order to verify the provider network information submitted by the MCOs and to obtain information needed to evaluate the adequacy of the MCOs' pediatric networks. The survey revealed deficiencies in one county for one MCO and in two counties for a second MCO. A final review of the findings is underway so that letters may be sent to the MCOs showing the deficiencies requesting plans of correction.
44	Review of Screening Requirements	6 mos. for hearing and vision; 18 mos. for	Committee has been appointed; chairman has been appointed (Dr. Joe McLaughlin). First meeting was held on June 10, and second meeting was held on July 10. Future meetings are scheduled for August 14 and September 11. TennCare has entered into a contract with Dr. McLaughlin for \$20,000 for consultant services to this committee

Abbreviations

EPSDT: Early and Periodic Screening, Diagnosis, and Treatment
 TSOP: TennCare Standard Operating Procedure
 MCO: Managed Care Organization
 BHO: Behavioral Health Organization

PCP: Primary Care Provider
 DCS: Department of Children's Services
 HCFA: Health Care Financing Administration
 EQRO: External Quality Review Organization

Section Number	Topic	Deadline	Progress
		behavioral/develop-mental	between June 1, 1998, and December 31, 1999.
45	Baseline Percentage of Overall Screening Compliance	120 days (7/12/98)	The baseline percentage of overall screening compliance for Federal Fiscal Year 1996 is 21.9%. The overall screening ratio reported to HCFA on the 416 report for this period was 39%. A medical chart review conducted by the Quality Improvement Unit at TennCare was used to determine the percentage of all 7 components that were actually documented in a sample of records; that percentage was 56.2%. Applying this percentage to the ratio obtained for the 416 report yields 21.9%. See pp. 9-11, <i>infra</i> .
46	Baseline Percentage of Dental Screening Compliance		The baseline percentage of dental screening compliance for Federal Fiscal Year 1996 is 28.2%. There were 124,788 dental screens reported on the HCFA 416 for children in the age groups from 1-20. Since dental screens are not recommended until age 3, the total number of dental screens was divided by the total number of eligible member years of 3-20 years olds, which was 442,106. The resulting percentage is 28.2%. <i>See pp. 12-14, infra</i> .
47	Screening Procedure and/or Diagnosis Codes		A letter was sent from TennCare on May 18 to the MCOs providing a list of screening procedure and/or diagnosis codes.
53	Review of Practices and Procedures for Referrals	120 days (7/12/98)	The EQRO has received and reviewed referral information from all MCOs. The EQRO found that all MCOs have mechanisms in place for referrals to specialists, behavioral health services, transportation services, and vision and dental care. The EQRO has developed recommendations specific to each MCO regarding modifications that they might make in their programs; these recommendations will be sent to the MCOs this week. Because there was a misunderstanding about the fact that the term "MCO" in the Consent Decree refers to BHOs as well as MCOs, a letter requesting information from the BHOs on their referral policies was not sent until July 2, 1998. Information from the BHOs is due to the EQRO by July 24, 1998.
54	Provision of All		The EQRO will conduct a more in-depth review of denials of service for anyone aged

Abbreviations
ETSDT: Early and Periodic Screening, Diagnosis, and Treatment
TSOP: TennCare Standard Operating Procedure
MCO: Managed Care Organization
BHO: Behavioral Health Organization

PCP: Primary Care Provider
DCS: Department of Children's Services
HCFA: Health Care Financing Administration
EQRO: External Quality Review Organization

Section Number	Topic	Deadline	Progress
	Medically Necessary Services		21 and under at the time it performs its focus follow-up surveys of each MCO this fall. The EQRO will focus attention on providers of vision and dental services.
55	Review of MCO Practices Re: Medical Necessity Decisions		An area of concentration for the EQRO in its focus follow-up surveys of each MCO this fall will be procedures involving authorization of services to children.
56	Definition of "Medical Necessity"		As part of its annual surveys of the MCOs, the EQRO is reviewing processes used to make medical necessity determinations, including case-by-case decisions. DCS has incorporated the TennCare definition of "medical necessity" into its Provider Services Manual, which is an attachment to its provider contracts.
57	Absolute Limits; Utilization Controls		The EQRO collected some of this information as part of information collected for Paragraph 53 (above). The review of this information revealed that most MCOs did not define specific service limits and most made reference to services being provided as long as medically necessary. The EQRO will perform a more extensive review of the MCOs' prior approval/utilization review processes during its focus follow-up surveys to be performed this fall.
58	Standards and Procedures for Monitoring	120 days (7/12/98)	The EQRO's annual surveys of each of the MCOs have revealed that only qualified people are making utilization review decisions.
	Utilization Review and Prior Approval Procedures		
60	DCS Provider Handbook	120 days (7/12/98)	TennCare has prepared a list of covered services that identifies which agencies are responsible for each service, a list of definitions of these services, and a set of instructions for obtaining approval for referral out-of-plan providers. These materials have been sent to DCS for incorporation in the handbook.
61i	Provider Agreements		Contract language requiring MCOs to inform providers about EPSDT is included in the

Abbreviations

EPSDT: Early and Periodic Screening, Diagnosis, and Treatment

Treatment

TSOP: TennCare Standard Operating Procedure

MCO: Managed Care Organization

BHO: Behavioral Health Organization

PCP: Primary Care Provider

DCS: Department of Children's Services

HCEA: Health Care Financing Administration

EQRO: External Quality Review Organization

Section Number	Topic	Deadline	Progress
61ii	Compliance with HCFA Access Standards	180 days (9/12/98)	current BHO Contract Amendment 6 and the draft of MCO Contract Amendment 5. The Quality Improvement Unit performs quarterly geoclass mapping analyses of the MCOs' inpatient provider, primary care provider, dental provider, and outpatient mental health provider networks. When deficiencies are identified, the MCO is given 30 days to demonstrate that the deficiency has been corrected. Failure to correct the deficiency within 30 days results in a retention of the MCO's monthly withhold.
62	Up-to-Date Lists of Specialists	Beginning no later than 180 days (9/12/98)	In MCO Contract Amendment 4, TennCare required that such a listing be given to the PCPs no later than February 1998. An update to the requirement is included in the draft of MCO Contract Amendment 5.
65	Policy Clarifications	180 days (9/12/98)	The Policy Unit will continue to prepare and issue TSOPs as issues are identified requiring policy guidance or clarification.
70	Monitoring of MCO Case Management Activities		The Quality Improvement Unit has performed clinical record reviews at all Community Mental Health Agencies in the State to determine the extent of the delivery of case management services to a sample of the Priority Population. Staff reviewed the records of over 1,000 participants. The results of the review have been entered into a database, with an analysis of the information to be completed within the next month.
71ii	Provision of a Comprehensive and Appropriate Scope of Geographically Accessible Child and Adolescent Behavioral Health Services		The TennCare Quality Improvement Unit has completed a GeoAccess mapping analysis of the BHO provider networks based on their May submissions. Both BHOs had network deficiencies identified, and both currently have withholds in place because of these deficiencies.
71iii	Enhanced Monitoring	120 days	An enhanced monitoring project was begun by TennCare in February 1998. A new

Abbreviations

EPSTD1: Early and Periodic Screening, Diagnosis, and Treatment
TSOP: TennCare Standard Operating Procedure
MCO: Managed Care Organization
BHO: Behavioral Health Organization

PCP: Primary Care Provider
DCS: Department of Children's Services
HCFA: Health Care Financing Administration
EQRO: External Quality Review Organization

Section Number	Topic	Deadline	Progress
	of Discharge Planning for Psychiatric and Chemical Dependency Facilities	(7/12/98)	proposal for this project has been developed by TennCare and is being reviewed.
72	Notice of Rulemaking Re: Limits	30 days (4/12/98)	A rulemaking notice was submitted to the Secretary of State's Office at the end of March and filed in the April 15 Tennessee Administrative Register. The hearing was held on May 18. The rules have been approved by the Attorney General's Office and are awaiting signature by the Secretary of State.
73	Monitoring of Sample of DCS Children for Service Adequacy	120 days (7/12/98)	DCS has entered into a contract with the Vanderbilt Institute for Public Policy Studies to accomplish this project. Three separate reports will be generated under the study. The first report is almost complete, and the second two reports will be completed by September 1998. Total contract amount: \$52,497.
74	Assurance of Non-Emergency Transportation		The EQRO has initiated the development of a tool which will be used during its focus surveys to examine the practices and procedures of transportation providers. Up until now, the EQRO reviewed only the MCOs' oversight of their delegated transportation vendors. However, the EQRO will now begin reviewing the transportation providers themselves.
75	Prohibition of Blanket Restrictions on Transportation		BHO Contract Amendment 6 and the draft of MCO Contract Amendment 5 include a provision stating that transportation for children must include transportation for an accompanying adult and prohibiting blanket restrictions based on age or lack of parental accompaniment.
83	Establishment of Commissioner's Task Force		Letters were sent on May 1 by Commissioner Menke to Commissioners Linda Rudolph, Jane Walters, and George Hattaway, to Deputy Commissioners Theresa Clarke and Tom Sullivan, and to Assistant Commissioners Doris Spain, Stephanie Perry, and Melanie Hampton requesting their participation in this Task Force. Each Commissioner

Section Number	Topic	Deadline	Progress
			was asked to name a staff person to serve on a staff committee to the Task Force. The first meeting of the staff committee was held on June 25.
88	Tennessee Commission on Children and Youth Service Testing Process	120 days (7/12/98)	DCS has accomplished this activity.
89-91	Creation of Expert Review Process	Contractor selected—45 days; contract executed—100 days	DCS has entered into a contract with Paul DeMuro to perform this process. Mr. DeMuro is completing his field work and will submit his report in September 1998. Total contract amount: \$97,931.25.
94	Tracking System	180 days (9/12/98)	Glenn Jennings is investigating the possibility of purchasing a software package for reporting tracking activities; this package would be used by the MCOs. A presentation by one potential vendor, MAXIMUS, is scheduled for August 1998.
95	DCS Tracking System	150 days (8/12/98)	DCS implemented its own EPSDT tracking system for children in DCS custody on July 1, 1998.
96	Monitoring and Reporting Compliance	120 days (7/12/98)	A reporting process has been developed by the TennCare Bureau Office.
99	Selection of Contractor to Conduct Services Testing on a Sample of Plaintiff Class Members	Select contractor within 60 days; execute contract	TennCare has selected two contractors to carry out this project. East Tennessee State University (ETSU) has been chosen to conduct an analysis of a random sample of the entire TennCare population of children and adolescents, and the University of Tennessee at Memphis is conducting an analysis of a sample of 400 children who have been labeled Seriously Emotionally Disturbed, as well as 400 Severely and/or Persistently Mentally Ill adults. Contracts with both groups are being finalized. The

Abbreviations

EPSDT: Early and Periodic Screening, Diagnosis, and Treatment

Treatment

TSOP: TennCare Standard Operating Procedure

MCO: Managed Care Organization

BHO: Behavioral Health Organization

PCP: Primary Care Provider

DCS: Department of Children's Services

HCFRA: Health Care Financing Administration

EQRO: External Quality Review Organization

Section Number	Topic	Deadline	Progress
		within 120 days	total amount of the ETSU contract is \$454,650, which includes in-kind contributions from ETSU. The total amount of the UT-Memphis contract for a three year period is \$1,301,618, which includes in-kind contributions from UT-Memphis.
101	Review of Appeals	Every six months, beginning on 7/12/98	A total of 572 appeals involving children's services was filed during the period January 1, 1998, through June 30, 1998. Appeals of inpatient psychiatric services were the largest category (137), followed by appeals of physical therapy services (96), pharmacy services (55), and psychiatric residential treatment services (41). The Appeals Unit is responsible for identifying those appeals where the MCO has failed to deliver a service within 30 days of a request by the State to do so and forwarding information on them to TennCare for assessment of liquidated damages as appropriate.
102-103	Review of Provider Contracts	60 days (5/12/98)	The Tennessee Department of Commerce and Insurance (TDCI) has completed its review of MCO and BHO contracts, as well as DCS contracts. The Contract Development and Compliance Unit at TennCare is analyzing TDCI's review and preparing feedback for the MCOs, BHOs, and DCS.
106	Quarterly Meetings with Plaintiffs' Attorneys		First meeting was held on May 18. Second meeting was scheduled twice during July but had to be postponed each time.
107	Attorneys' Fees	60 days (5/12/98)	Plaintiffs' attorneys' fees have been submitted and are being reviewed by the Attorney General's Office.
113	Notification of Class Members		After review by the plaintiffs' attorneys, a MCO newsletter notice was sent to all MCOs on April 13. After review by the plaintiffs' attorneys, a description of the settlement was sent to the hotlines and the MCOs on May 11.
114	Notification of Persons with Disabilities		TennCare has sent letters containing the description of the settlement mentioned above to well over 200 advocacy organizations for distribution to their members and constituents. The description has also been circulated to providers in the State's Immunization Program.
115	Attachment of		An announcement has been prepared and is in the process of being added to the "new

Abbreviations

EPSDT: Early and Periodic Screening, Diagnosis, and Treatment
TSOP: TennCare Standard Operating Procedure
MCO: Managed Care Organization
BHO: Behavioral Health Organization

PCP: Primary Care Provider
DCS: Department of Children's Services
HCHA: Health Care Financing Administration
EQRO: External Quality Review Organization

Section Number	Topic	Deadline	Progress
	Information in Newly Approved TennCare Eligibles' Notice of Eligibility		member" letters sent out by TennCare.

sb. epsdt 7.9

Abbreviations

EPsDT: Early and Periodic Screening, Diagnosis, and Treatment
TSOP: TennCare Standard Operating Procedure
MCO: Managed Care Organization
BHO: Behavioral Health Organization

PCP: Primary Care Provider
DCS: Department of Children's Services
HCFA: Health Care Financing Administration
EQRO: External Quality Review Organization

Methodology Used to Calculate Overall Screening Compliance

Using the methodology identified in paragraph 46 of the EPSDT consent decree, a baseline adjusted periodic screening percentage was calculated as follows:

The overall screening ratio of .39 from line #11 of the October 1, 1995-September 30, 1996 HCFA 416 report was multiplied by 100 to calculate the baseline periodic screening percentage of 39%. This baseline periodic screening percentage was then adjusted by the results of a medical record review of 441 encounters coded as periodic screens. Each record was reviewed to determine the presence or absence of documentation of the seven required components identified in paragraph 46 of the consent decree. A total of 1735 components were documented. The required number of components was $(441 \times 7) 3087$. This represents an average of 3.93 components documented per record or 56.2% of the required components documented per record. The baseline periodic screening percentage (39%) was multiplied by .562 to determine the **baseline adjusted periodic screening percentage (APSP) of 21.91.**

DATE 06/26/97 TENNESSEE DEPARTMENT OF HEALTH AND ENVIRONMENT
 TMWEP580 NHCARE MANAGEMENT INFORMATION SYSTEM
 DOWNS/HCFE REPORTING PERIOD OCT 01, 1995 - SEP 30, 1996

FORM APPROVED
 CMS NO- 0938-0291

FORM HCFA-416: ANNUAL EPSDT PARTICIPATION REPORT

STATE IN FY 1996

1. NO OF INDIVIDUALS ELIG FOR EPSDT	CAT	TOTAL	AGE GROUPS				
			<1	1-5	6-14	15-20	
CM	457850	35181	178063	173652	70162		
MM	172916	3583	33273	33273	65246	70414	
TOTAL	630766	39164	212136	238896	140576		
2. RATIO OF RECOMM. INIT OR PERIODIC SCREENING SERVICES ALL	CM	XXXXXX	6.00	1.20	0.56	0.50	
MM	XXXXXX	4.00	1.20	0.56	0.50		
TOTAL	XXXXXX	4.00	1.20	0.56	0.50		
3. AVERAGE PERIOD OF ELIGIBILITY	CM	.83	.83	.83	.92	.83	
MM	.83	.92	.83	.83	.83	.83	
TOTAL	.83	.92	.83	.83	.83	.83	
4. ADJUSTED RATIO OF RECOMMENDED SCREENING SERVICES ALL	CM	XXXXXX	4.98	0.99	0.51	0.41	
MM	XXXXXX	5.52	0.99	0.46	0.41		
TOTAL	XXXXXX	5.52	0.99	0.51	0.41		
5. PROP OF ELIGIBLES WHO SHOULD REC'D AT LEAST 1 SCREENING SERVICE	CM	XXXXXX	1.00	0.99	0.51	0.41	
MM	XXXXXX	1.00	0.99	0.46	0.41		
TOTAL	XXXXXX	1.00	0.99	0.46	0.41		

6. NO OF ELIGIBLES WHO SHOULD RECEIVE A SCREENING SERVICE	CM	329583	35181	177076	86562	26766	
MM	95804	3983	32940	30812	28869		
TOTAL	425387	39164	210016	118574	57635		
7. NO OF ELIGIBLES RECEIVING SCREENING SERVICES	CM	102505	19818	53918	12073	15696	
MM	25924	2450	9923	4467	9084		
TOTAL	128429	22268	63841	17540	24780		
8. PARTICIPANT RATIO	CM	.31	.56	.30	.15	.35	
MM	.27	.62	.30	.15	.31		
TOTAL	.30	.57	.30	.15	.43		
9. EXPECTED NUMBER OF SCREENING SERVICES	CM	469603	175201	177076	86562	28766	
MM	115807	21986	32948	30012	28869		
TOTAL	585410	197187	210016	118574	57635		
10. ACTUAL NUMBER OF SCREENING SERVICES	CM	183526	47312	84698	17371	34365	
MM	46733	6399	15007	5954	19373		
TOTAL	230259	53711	99505	23325	53718		
11. SCREENING RATIO	CM	.39	.27	.48	.20	1.19	
MM	.41	.29	.46	.20	.67		
TOTAL	.39	.27	.47	.20	.93		

FORM APPROVED
DND NO - 0958-0291

FORM HCFA-416: ANNUAL EPSDT PARTICIPATION REPORT

STATE IN FY 1996		AGE GROUPS				
	CAT	TOTAL	1	1-5	6-14	15-20
12. NO OF ELIGIBLES	CM	102368	13803	5366	13034	15665
REFD FOR CORRECTIVE	MM	25864	2649	9911	4447	9057
TREATMENT	TOTAL	128232	22252	63777	17481	24722
13. NO OF ELIGIBLES	CM	146244	19990	60857	41413	21984
RECEIVING VISION	MM	41110	2666	10723	13134	14787
SERVICES	TOTAL	185354	22956	71580	54547	36771
14. NO OF ELIGIBLES	CM	92868	487	28026	51420	12141
RECEIVING PREVENTIVE	MM	32452	45	5335	16887	10185
DENTAL SERVICES	TOTAL	125320	532	34155	68307	22326
15. NO OF ELIGIBLES	CM	115465	20995	59367	17239	16264
RECEIVING HEARING	MM	29036	2366	11094	5086	9490
SERVICES	TOTAL	142501	23161	70461	23125	25754
16. NO OF ELIGIBLES	CM	457856	35181	178863	173632	70162
ENROLLED CONTINUING	MM	172914	3943	33273	65244	70814
CARE ARRANGEMENTS	TOTAL	630772	39164	212136	238876	140976

FORM HCFA-416 (7-95)

Methodology Used to Calculate Dental Screening Compliance

Using the methodology identified in paragraph 46 of the EPSDT consent decree, the baseline dental screening percentage (DSP) was calculated as follows:

Utilizing the October 1, 1995-September 30, 1996 HCFA 416 report and HCFA 416 methodology, a baseline dental screening ratio was calculated. A screening frequency standard of one screen per year, per child ages 3-20 resulted in a ratio on line #2 of the HCFA 416 of .60 for the 1-5 age group and 1.0 for the 6-14 and 15-20 age groups. The expected number of dental screening services was then calculated according to HCFA 416 methodology and determined to be equal to 442,106 screens. The actual number of dental screens provided to individuals in the 3-20 year old age groups was determined from line #14 of the HCFA 416. Actual screens (124,788) were then divided by the expected number of screens (442,106) and the result multiplied by 100 to determine the baseline dental screening percentage (DSP) of 28.2%.

DATE 06/26/97 TENNESSEE DEPARTMENT OF HEALTH AND ENVIRONMENT
 IMMERS560 NURSING MANAGEMENT INFORMATION SYSTEM
 DMM5/HCEA REPORTING PERIOD OCT 01, 1995 - SEP 30, 1996

FORM HCFA-616: ANNUAL EPSDT PARTICIPATION REPORT

FORM APPROVED
 OHS NO- 0938-0291

STATE TN FY 1996

AGE GROUPS

1. NO OF INDIVIDUALS ELIG FOR EPSDT	CAT	TOTAL	<1	1-5	6-14	15-20
	CN	457450	35181	170863	173452	70162
	MM	172914	3983	33273	65244	70414
	TOTAL	630364	39164	212136	238696	140576
2. RATIO OF RECOMM. INIT OR PERIODIC SCREENING SERVICES	CN	XXXXXX	6.00	1.20	0.56	0.50
	MM	XXXXXX	6.00	1.20	0.56	0.50
	ALL	XXXXXX	6.00	1.20	0.56	0.50
3. AVERAGE PERIOD OF ELIGIBILITY	CN	.83	.83	.83	.92	.83
	MM	.83	.92	.83	.83	.83
	ALL	.83	.92	.83	.92	.83
4. ADJUSTED RATIO OF RECOMMENDED SCREENING SERVICES	CN	XXXXXX	6.98	0.99	0.51	0.41
	MM	XXXXXX	5.52	0.99	0.46	0.41
	ALL	XXXXXX	5.52	0.99	0.51	0.41
5. PROP OF ELIGIBLES WHO SHOULD REC'D AT LEAST 1 SCREENING SERVICE	CN	XXXXXX	1.00	0.99	0.51	0.41
	MM	XXXXXX	1.00	0.99	0.51	0.41
	ALL	XXXXXX	1.00	0.99	0.51	0.41

6. NO OF ELIGIBLES WHO SHOULD RECEIVE A SCREENING SERVICE	CN	329583	35181	177074	88562	26766
	MM	95804	3983	32960	30012	28869
	TOTAL	425387	39164	210034	118574	57635
7. NO OF ELIGIBLES RECEIVING SCREENING SERVICES	CN	102505	19818	53918	13073	15696
	MM	25924	2450	9923	4667	9084
	TOTAL	128429	22268	63841	17540	24780
8. PARTICIPANT RATIO	CN	.31	.56	.30	.15	.55
	MM	.27	.62	.30	.15	.31
	TOTAL	.30	.57	.30	.15	.43

9. EXPECTED NUMBER OF SCREENING SERVICES	CN	469603	175201	177074	88562	26766
	MM	113607	21986	32960	30012	28869
	TOTAL	583210	197187	210034	118574	57635
10. ACTUAL NUMBER OF SCREENING SERVICES	CN	183526	47312	86698	17371	34345
	MM	46733	6399	15067	5954	19373
	TOTAL	230259	53711	99505	23325	53718
11. SCREENING RATIO	CN	.39	.27	.48	.20	1.19
	MM	.41	.29	.46	.20	.67
	ALL	.39	.27	.47	.20	.93

DATE 06/26/97 TENNESSEE DEPARTMENT OF HEALTH AND ENVIRONMENT
 TENN CARE MANAGEMENT INFORMATION SYSTEM
 REPORTING PERIOD OCT 01, 1995 - SEP 30, 1996
 FORM APPROVED
 DMS/HCEA DMS NO- 0938-0291

FORM HCFA-416: ANNUAL EPSDT PARTICIPATION REPORT

STATE IN FY 1996		AGE GROUPS				
		<1	1-5	6-14	15-20	
12. NO OF ELIGIBLES	CN	102368	53866	13036	15665	
REFD FOR CORRECTIVE	PM	25864	9911	4447	9057	
TREATMENT	TOTAL	128232	63777	17481	24722	
13. NO OF ELIGIBLES	CN	146246	60857	41613	21984	
RECEIVING VISION	PM	41110	10723	13136	14787	
SERVICES	TOTAL	187356	71580	54749	36771	
14. NO OF ELIGIBLES	CN	92868	28820	51420	12141	
RECEIVING PREVENTIVE	PM	32652	5335	16887	10185	
DENTAL SERVICES	TOTAL	125520	34155	68307	22326	
15. NO OF ELIGIBLES	CN	115465	59367	17239	16264	
RECEIVING HEARING	PM	29836	11094	5066	9490	
SERVICES	TOTAL	145301	70461	22305	25754	
16. NO OF ELIGIBLES	CN	457856	35181	178863	70162	
ENROLLED CONTINUING	PM	172914	3983	33273	70414	
CARE ARRANGEMENTS	TOTAL	630770	39164	212136	140576	

FORM HCFA-416 (7-95)

Attachment C

EPSDT Screening Committee

EPSDT SCREENING GUIDELINES COMMITTEE

(Revised 7/10/98) [¶44(a)]

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Attachment D

Reporting Process

Ongoing Process for Monitoring and Reporting Compliance with the EPSDT Consent Decree (Paragraph 96)

1. The TennCare Bureau Office has already developed an Implementation Schedule for the EPSDT Consent Decree. Informal progress reports summarizing activities on the various items in the Implementation Schedule will be prepared at least quarterly for the meetings with the plaintiffs' attorneys required by Paragraph 106. In addition, Semiannual Progress Reports will be filed with the Court and with the plaintiffs' attorneys in accordance with Paragraph 104.
2. The TennCare Data Analyst will compile, in a format meeting the requirements of Paragraph 97, data on pertinent provider encounters which involve children. This report will be submitted for the first time with the July 1999 Semiannual Progress Report and will be updated annually thereafter throughout the duration of the Consent Decree.
3. In accordance with Paragraph 98 and as part of ongoing quality of care studies, the TennCare Information Systems Unit will conduct data validations on all medical record reviews which involve children.
4. The TennCare Bureau Office has contracted with ETSU for the services testing study required by Paragraph 99.
5. The TennCare Policy Unit will conduct a semiannual review of EPSDT policies and procedures in accordance with Paragraph 100 and will update these as necessary, paying particular attention to areas of need for policy guidance suggested by the results of the ongoing analyses and studies.
6. The Tennessee Department of Health Appeals Unit will conduct semiannual reviews of appeals filed under TennCare in accordance with Paragraph 101. The Appeals Unit will make recommendations to TennCare for liquidated damages on MCOs whenever the Appeals Unit determines that the MCO has failed to provide a service within 30 days after receiving a directive from the State to do so.
7. The Tennessee Department of Commerce and Insurance has completed a review of all MCO and BHO provider agreements and all DCS contracts in accordance with Paragraph 102. The Contract Development and Compliance Unit at TennCare is analyzing these reviews to determine what follow-up needs to occur, in accordance with Paragraph 103. The CDCU will monitor all new provider agreements as they are submitted to assure that they contain no components which discourage compliance with EPSDT.